

§ 65-70. Construction of mausoleums and belowground crypts; trust fund for receipts from sale of preconstruction crypts; compliance requirements.

(a) A cemetery company shall be required to start construction of that section of a mausoleum or bank of belowground crypts in which sales, contracts for sale, reservations for sales or agreements for sales are being made, within 48 months after the date of the first sale. The construction of the mausoleum section or bank of belowground crypts shall be completed within five years after the date of the first sale made; provided, however, extensions for completion, not to exceed three years, may be granted by the Commission for good reasons shown.

(b) A cemetery company which plans to offer for sale space in a section of a mausoleum or bank of underground crypts prior to its construction shall establish a preconstruction trust account. The trust account shall be administered and operated in the same manner as the merchandise trust account provided for in G.S. 65-66 and shall be exclusive of the merchandise trust account or the other trust accounts or funds that may be required by law. The personal representative of any purchaser of the space who dies before completion of construction shall be entitled to a refund of all moneys paid for the space including any income earned thereon.

(c) Before a sale, contract for sale, reservation for sale or agreement for sale in the first mausoleum section or bank of underground crypts in each cemetery may be made the funds (one hundred twenty percent (120%) of construction cost) to be deposited to the preconstruction trust account shall be computed as to the section or bank of crypts and the trust account payments must be made on or before the last day of the calendar month following receipt by the cemetery company or its agent of each payment. The trust account portion of each payment shall be computed by dividing the cost of the project plus twenty percent (20%) of the cost, as computed by a licensed contractor, engineer or architect by the number of crypts in the section or bank of crypts to ascertain the cost per unit. The unit cost shall be divided by the contract sales price of each unit to obtain a percentage which shall be multiplied by the amount of each payment. The formula shall be computed as follows:

Cost plus twenty percent (20%) divided by number of crypts = cost per unit

Cost per unit divided by contract sales price = percentage

Percentage x payment received = deposit required to preconstruction trust account.

(d) The cemetery company shall be entitled to withdraw the funds from the preconstruction trust account only after the Commission has become satisfied that construction has been completed; provided, however, that during construction of the mausoleum or bank of belowground crypts the Commission may, in its discretion, authorize a specific percentage of the funds to be withdrawn when it appears that at least an equivalent percentage of construction has been completed.

(e) If a mausoleum section or bank of underground crypts is not completed within the time limits set out in this section the corporate trustee, if any, shall contract for and cause the project to be completed and paid therefor from the trust account funds deposited to the project's account paying any balance, less cost and expenses, to the cemetery company. In the event there is no corporate trustee, the Commission shall appoint a committee to serve as trustees to contract for and cause the project to be completed and paid therefor from the trust account funds deposited to the project's account paying any balance, less cost and expenses, to the cemetery company.

(f) In lieu of the payments outlined hereunder to the preconstruction trust account the cemetery company may deliver to the Commission a good and sufficient completion or performance bond in an amount and by surety companies acceptable to the Commission. (1975, c. 768, s. 1; 1977, c. 686, ss. 16, 17; 1979, c. 888, s. 8; 2010-102, s. 5.)